

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

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In re: QAZ, LLC,

Debtor.

Case No. 22-23802-rmb  
Chapter 11 (Subchapter V)

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**NOTICE OF MOTION FOR VALUATION AND REQUEST TO DETERMINE  
SECURED AMOUNT OF BARNETT REI FINANCE 1 LLC'S CLAIM**

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PLEASE TAKE NOTICE THAT Barnett REI Finance 1 LLC (successor in interest to Barnett REI Finance 2 LLC) (hereinafter, "Barnett"), by its attorneys, Steinhilber Swanson LLP, by Attorney Virginia E. George has filed a Motion for Valuation and Request to Determine Secured Amount of Barnett REI Finance 1, LLC's Claim (the "Motion").

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. If you do not have an attorney, you may wish to consult one.**

If you do not want the Court to grant the Motion, or if you want the Court to consider your views on the matter, then no later than **14 days from the date of this notice**, you or your attorney must:

1. File with the Court a written objection at:

Clerk of the U. S. Bankruptcy Court  
Room 126, Federal Courthouse  
517 E. Wisconsin Avenue  
Milwaukee, WI 53202

If you mail your objection to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

2. You must also mail a copy to:

Office of the U. S. Trustee  
517 E. Wisconsin Ave., Rm 430  
Milwaukee, WI 53202

Steinhilber Swanson LLP  
759 N. Milwaukee St., Suite 350  
Milwaukee, WI 53202

Kerkman & Dunn  
839 N. Jefferson St., Suite 400A  
Milwaukee, WI 53202

Any objection should state briefly the grounds for such objection. Unless an objection is filed as instructed above, on or before the date indicated above, the Court may enter an order granting the relief requested in the Motion.

Dated: January 4, 2023.

STEINHILBER SWANSON LLP  
Attorney for Secured Creditor, Barnett REI  
Finance 1 LLC

By: /s/ Virginia E. George  
Virginia E. George  
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In re: QAZ, LLC,

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**MOTION FOR VALUATION AND REQUEST TO DETERMINE SECURED  
AMOUNT OF BARNETT REI FINANCE 1 LLC'S CLAIM**

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NOW COMES the Creditor, Barnett REI Finance 1 LLC (successor in interest to Barnett REI Finance 2 LLC) (hereinafter, "Barnett"), by its attorneys, Steinhilber Swanson LLP, by Attorney Virginia E. George, and requests that the Court determine the value of real property located at 1904 South 7th Street in Milwaukee, Wisconsin (hereinafter, the "Real Property") and the secured claim of Barnett thereon. In support thereof, Barnett states as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Order of Reference* from the United States District Court for the Eastern District of Wisconsin, dated as of July 10, 1984. This is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(A) and (K), as a matter concerning administration of the Debtor's estate and the determination of the extent of a lien. Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory and legal predicates for the relief requested herein are 11 U.S.C. §§ 105(a) and 506 and Rule 3012 of the Federal Rules of Bankruptcy Procedure.

**Background**

3. On August 27, 2022, QAZ, LLC (the "Debtor") filed a voluntary petition for relief under chapter 11, subchapter V of the Bankruptcy Code. The Debtor operating its business as a

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debtor in possession pursuant to 11 U.S.C. § 1184. Jerome R. Kerkman is currently serving as trustee pursuant to 11 U.S.C. § 1183(a).

### **Valuation**

4. Section 506(a) of the Bankruptcy code provides that an allowed claim “is secured to the extent of the value of such creditor’s interest in the estate’s interest in such property, . . . , and is an unsecured claim to the extent that the value of such creditor’s interest . . . is less than the amount of such allowed claim.” 11 U.S.C. § 506(a)(1). Under Fed. R. Bankr. P. 3012(a)(1), the Court may determine the amount of secured claim under § 506(a), which itself requires that the value of property must be “determined in light of the purpose of the valuation and the proposed disposition or use of such property[.]” 11 U.S.C. § 506(a)(1).

5. The Debtor owns the Real Property which secures a debt to Barnett with an outstanding balance of approximately \$132,863.59 with a fixed annual interest rate of 11.99%, pursuant to a properly perfected Mortgage, Assignment of Rents, and Security Agreement. (*See* Proof of Claim No. 3-2 at 41–65.)

6. Based on the “Debtor’s opinion”, the Debtor’s schedule and plan indicate that the value of the Real Property is \$200,000. (*See* ECF No. 15-1 at 6 & 34 at 2.) However, Barnett obtained an appraisal of the Real Property on December 5, 2022 indicating that the true and correct value of the Real Property is \$148,000.00. (*See* ECF 41-01.)

7. Barnett’s mortgage is primed by past due real estate taxes in the amount of \$6,323.46 (as of January 3, 2023). (*See* ECF 41-02.) Those real estate taxes continue to accrue at the rate of 1% per month. *See* Wis. Stat. § 74.87(6)(d); § 74.47(1). In addition, the Debtor has not paid its 2022 real estate taxes in the amount of \$1,878.98 (ECF 41-02.) These costs, plus \$11,840,

representing an estimated 8% cost of liquidation, all reduce the value of Barnett's secured claim. Taken together, the value of Barnett's secured claim is \$127,957.56.<sup>1</sup>

WHEREFORE, based on the appraised value of the Real Property, Barnett respectfully requests the Court to order:

1. Determining that the actual value of the Real Property is \$148,000.
2. Determining that Barnett is a secured creditor and that, as of January 3, 2022, Barnett holds a secured claim in the amount of \$127,957.56 and that the balance of Barnett's claim is unsecured.
3. Ordering that all interested parties in this case shall be, and are bound by, the values and determination of secured status as set forth in this Motion; and
4. Granting any other relief the Court deems just and appropriate.

Dated: January 4, 2023.

STEINHILBER SWANSON LLP  
Attorney for Secured Creditor, Barnett REI  
Finance 1 LLC

By: /s/ Virginia E. George

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<sup>1</sup> Because § 506(a) requires that "valuations of such creditor's interests" be "determined in light of the purpose of the valuation and of the proposed disposition or use of such property," it is appropriate to consider liquidation costs and payment of 2022 real estate taxes. If the Court finds otherwise, then Barnett is entitled to include in its secured claim accruing interest and the costs of collection up to the value of the Real Property. In such an event, Barnett's secured claim would be \$141,676.54, with any balance being an unsecured claim.